

**CERTIFICATE OF ELECTRONIC TRANSMISSION**

I hereby certify that this correspondence for Application No. 09/558,329 is being electronically transmitted via EFS-WEB, on October 23, 2007.

/Randall S. Jackson, Jr./

October 23, 2007

Randall S. Jackson, Jr.  
Reg. No. 48,248

Date

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

**Ex parte Stern**

**Appeal No. \_\_\_\_\_**

Serial No.: 09/558,329  
Filed: April 25, 2000  
Group Art Unit: 1771  
Examiner: Cheryl Juska  
Applicant: Randolph A. Stern and Michael N. Byles  
Title: Stitch Bonded Fabric and Fluid-Retaining Fabric Made Therewith  
Attorney Docket: STAN-09RE  
Conf. No.: 9722

Mail Stop APPEAL BRIEF-PATENTS  
Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

October 23, 2007

Dear Madam:

**RESPONSE TO THE NOTICE OF NON-COMPLIANT APPEAL BRIEF**

This is in response to the Notice of Non-Compliant Appeal Brief mailed September 27, 2007. As set forth below, Section V of the Appeal Brief, titled "Summary of Claimed Subject Matter", now maps the subject matter of independent claims 58 and 65 to the specification by page and line number and to the drawings.

**V. Summary of Claimed Subject Matter**

Claims 1, 12, 23, 30, 39, 51, 58, 65, 70, and 80 are independent claims.

**Independent Claim 1**

Appellant's independent claim 1 is directed to a stitch bonded facing fabric (10). *See* col. 2 lines 31-65 and Figures 1, 2, and 5 of Appellant's specification. The stitch bonded facing fabric (10) includes a first layer of hydrophobic felt (14) and a second layer of hydrophilic felt (16) adjacent to the first layer (14) so as to define a felt web (12) having an upper surface (20) defined by an upper side of the first layer and a lower surface (22) defined by a lower side of the second layer. A plurality of stitch bonding yarns (18) repeatedly extends through the felt web (12). The yarn segments (18', 18'') extend across both the upper (20) and lower surfaces (22) of the felt web (12) such that the yarn segments (18') extending across the felt web (12) upper surface (20) cooperate to form a top yarn face (24) above the felt web (12) upper surface (20) and the yarn segments (18'') extending across the felt web (12) lower surface (22) cooperate to form a bottom yarn face (26) below the felt web (12) lower surface (22). Each yarn face (24, 26) is effectively continuous such that the corresponding web surface (20, 22) is not generally exposed at the associated yarn face (24, 26). *See* col. 2 lines 59-63.

**Independent Claim 12**

Appellant's independent claim 12 is directed to a stitch bonded facing fabric (10). *See* col. 2 lines 31-65 and Figures 1, 2, and 5 of Appellant's specification. The stitch bonded fabric (10) includes a felt web (12) having a hydrophobic upper aspect (14) extending from an upper surface (20) of the web (12) and a hydrophilic lower aspect (16) extending from a lower surface (22) of the web (12). A plurality of stitch bonding yarns (18) repeatedly extends through the felt web (12) with yarn segments (18) extending across both the upper (20) and lower (20) surfaces of the felt web (12). The yarn segments (18') extending across the felt web (12) upper

surface (22) cooperate to form a top yarn face (24) above the felt web (12) upper surface (20). The yarn segments (18'') extending across the felt web (12) lower surface (22) cooperate to form a bottom yarn face (26) below the felt web (12) lower surface (22). Each yarn face (24, 26) is effectively continuous such that the corresponding web surface (20, 22) is not generally exposed at the associated yarn face (24, 26). *See* col. 2 lines 59-63.

### **Independent Claim 23**

Appellant's independent claim 23 is directed to a fluid retaining fabric. *See* col. 3 lines 20-35 and Figures 6 and 7 of Appellant's specification. The fluid retaining fabric includes a stitch bonded facing fabric (10) having a first layer of hydrophobic felt (14), a second layer of hydrophilic felt (16) being adjacent to the first layer so as to define a felt web (12) having an upper surface (20) defined by an upper side of the first layer (14) and a lower surface (22) defined by a lower side of the second layer (16). A plurality of stitch bonding yarns (18) repeatedly extend through the felt web (12) with yarn segments (18', 18'') extending across both the upper (20) and lower (22) surfaces of the felt web (12). The yarn segments (18') extending across the felt web (12) upper surface (20) cooperate to form a top yarn face (24) above the felt web (12) upper surface (20). The yarn segments (18'') extending across the felt web (12) lower surface (22) cooperate to form a bottom yarn face (26) below the felt web (12) lower surface (22). Each yarn face (24, 26) is effectively continuous such that the corresponding web surface (20, 22) is not generally exposed at the associated yarn face (24, 26). *See* col. 2 lines 59-63. A barrier layer (40) is attached to the bottom yarn face (26).

### **Independent Claim 30**

Appellant's independent claim 30 is directed to a stitch bonded facing fabric (10). *See* col. 2 lines 31-65 and Figures 1, 2, and 5 of Appellant's specification. The stitch bonded facing fabric (10) includes a felt web (12) having an upper surface (20) and a lower surface (22).

The stitch bonded fabric (10) has a plurality of stitch bonding yarns (18) repeatedly extending through the felt web (12) with yarn segments (18', 18'') extending across both the upper (20) and lower (22) surfaces of the felt web (12). The yarn segments (18') extending across the felt web (12) upper surface (20) cooperate to form a top yarn face (24) above the felt web (12) upper surface (20). The yarn segments (18'') extending across the felt web (12) lower surface (22) cooperate to form a bottom yarn face (26) below the felt web (12) lower surface (22). Each yarn face (24, 26) is effectively continuous such that the corresponding web surface (20, 22) is not generally exposed at the associated yarn face (24, 26). *See* col. 2 lines 59-63.

### **Independent Claim 39**

Appellant's independent claim 39 is directed to an incontinent pad. *See* col. 3 lines 23-26 and Figures 6 and 7 of Appellant's specification. The incontinent pad includes a stitch bonded facing fabric (10) having a felt web (12) having an upper surface (20) and a lower surface (22). A plurality of stitch bonding yarns (18) repeatedly extend through the felt web with yarn segments (18', 18'') extending across both the upper (20) and lower (22) surfaces of the felt web (12). The yarn segments (18') extending across the felt web (12) upper surface (20) cooperate to form a top yarn face (24) above the felt web (12) upper surface (20). The yarn segments (18'') extending across the felt web (12) lower surface (22) cooperate to form a bottom yarn face (26) below the felt web (12) lower surface (22). Each yarn face (24, 26) is effectively continuous such that the corresponding web surface (20, 22) is not generally exposed at the associated yarn face (24, 26). *See* col. 2 lines 59-63. A barrier layer (40) is joined to the facing fabric (10) so as to confront the bottom yarn face (26) of the facing fabric (10).

### **Independent Claim 51**

Appellant's independent claim 51 is directed to a fluid retaining fabric. *See* col. 3 lines 20-35. The fluid retaining fabric includes a felt web (12) having an upper surface (20) and

a lower surface (22). The felt web (12) is adapted to retain fluid. *See* col. 3 lines 20-23. A plurality of stitch bonding yarns (18) repeatedly extend through the felt web (12) with yarn segments (18', 18'') extending across both the upper (20) and lower (22) surfaces of the felt web (12). The yarn segments (18') extending across the felt web (12) upper surface (20) cooperate to form a top yarn face (24) above the felt web (12) upper surface (20). The yarn segments (18'') extending across the felt web (12) lower surface (22) cooperate to form a bottom yarn face (26) below the felt web (12) lower surface (22). The stitch bonding yarns (18) are hydrophobic to assist in wicking fluid into the felt web (12). *See* col. 3 lines 8-10. Each yarn face (24, 26) is effectively continuous such that the corresponding web surface (20, 22) is not generally exposed at the associated yarn face (24, 26). *See* col. 2 lines 59-63.

#### **Independent Claim 58**

Appellant's independent claim 58 is directed to a stitch bonded facing fabric (10). *See* col. 2 lines 31-65 and Figures 1, 2, and 5 of Appellant's specification. The stitch bonded facing fabric (10) includes a first layer of felt (14) having hydrophobic properties and further having an outer surface (20). A plurality of stitch bonding yarns (18) repeatedly extend through the first layer of felt (14) with yarn segments (18') extending across the outer surface (20) of the layer of felt (14), such that the yarn segments extending across the felt layer (14) outer surface (20) cooperate to form a yarn face (24) above the felt layer (14) outer surface (20). The yarn face (24) is effectively continuous such that the outer surface (20) of the layer of felt (14) is not generally exposed at the yarn face (24). *See* col. 2 lines 59-63

#### **Independent Claim 65**

Appellant's independent claim 65 is directed to a stitch bonded facing fabric (10). *See* col. 2 lines 31-65 and Figures 1, 2, and 5 of Appellant's specification. The stitch bonded facing fabric (10) includes a first layer of felt (16) having hydrophilic properties and further

having an outer surface (22) and a plurality of stitch bonding yarns (18). The stitch bonding yarns (18) repeatedly extend through the first layer of felt (16) with yarn segments (18'') extending across the outer surface (22) of the layer of felt (16), such that the yarn segments (18'') extending across the felt layer (16) outer surface (22) cooperate to form a yarn face (26) above the felt layer (16) outer surface (26). The yarn face (26) is effectively continuous such that the outer surface (22) of the layer of felt (16) is not generally exposed at the yarn face (26). *See col. 2 lines 59-63*

#### **Independent Claim 70**

Appellant's independent claim 70 is directed to an incontinent pad. *See col. 3 lines 23-26 and Figures 6 and 7 of Appellant's specification.* The incontinent pad includes a facing fabric (10) including a first layer of felt (14) having hydrophobic properties and further having an outer surface (20), and a plurality of stitch bonding yarns (18) repeatedly extending through the first layer of felt (14) with yarn segments (18') extending across the outer surface (20) of the layer of felt (14). The yarn segments (18') extending across the felt layer (14) outer surface (20) cooperate to form a yarn face (24) above the felt layer (14) outer surface (20). The yarn face (24) is effectively continuous such that the outer surface (20) of the felt layer (14) is not generally exposed at the yarn face (24). A barrier layer (40) is joined to the facing fabric (10).

#### **Independent Claim 80**

Appellant's independent claim 80 is directed to an incontinent pad. *See col. 3 lines 23-26 and Figures 6 and 7 of Appellant's specification.* The incontinent pad includes a facing fabric (10) including a first layer of felt (16) having hydrophilic properties and further having an outer surface (22), and a plurality of stitch bonding yarns (18) repeatedly extending through the first layer of felt (16) with yarn segments (18'') extending across the outer surface

(22) of the layer of felt (16). The yarn segments (18”) extending across the felt layer (16) outer surface (22) cooperate to form a yarn face (26) above the felt layer (16) outer surface (22). The yarn face (26) is effectively continuous such that the outer surface (22) of the layer of felt (16) is not generally exposed at the yarn face (26). A barrier layer (40) is joined to the facing fabric (10).

### **Conclusion**

Appellants respectfully submit that the previously submitted Appeal Brief, with revised Section V above, is in full compliance with the provisions of 37 CFR §41.37. If this Response leaves any issues open, a call to undersigned counsel would be gratefully appreciated.

Respectfully submitted,  
WOOD, HERRON & EVANS, L.L.P.

By /Randall S. Jackson, Jr./  
Randall S. Jackson, Jr.  
Reg. 48,248

2700 Carew Tower  
Cincinnati, Ohio 45202  
(513) 241-2324  
FAX (513) 241-6234